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1949.

File No. AGN Leg | 49-III

Legal **DEPARTMENT**

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Subject:— Draft Agreements — Scrutiny of — under the Land Acquisition Act 1894.

(for previous ppr pl. see parah 1 at II)

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File No. AGN Leg | 49-III

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C O N T E N T S.

Legal Department File No. A.G.N. Leg/49-III

Sr. No.	R.I. / O. No.	Subject	Pages.
1.		Draft Sanad of the Byadgi Co-Op. Housing Society Ltd.	1-7.
2.		Draft Agreement between the Karnatak Co-Op. Housing Society and the Governor of Bombay-	9-17.

EVY. 31/5.

AG 7/6

Sanad.

To

The Chairman of the Byadgi Coopera tive Housing Society, Ltd., Byadgi, District Dharwar.

Whereas by an agreement dated the _____ day of _____ 1949 and expressed to be made between the Byadgi cooperative Housing Society Ltd., a Society registered under the Bombay Cooperative Societies Act, (Bomba Act VIII of 1925) having its registered office at Byadgi (hereinafter called "the Society" which expression shall unless excluded by or repugnant to the context be deemed to include its success-ors and assigns) of the one part and the Governor of Bombay (hereinafter called "the Government" which expression shall unless excluded by or repugnant to the context be deemed to include his successors and assigns) of the other part in consideration of the society having undertaken to use the parcels of land more particularly described in the sche-dule hereto annexed (hereinafter referred to as " the said land") for the purposes of buildings, roads etc. for which the Government agreed to acquire the said land under the provi-sions of the Land Acquisition Act, 1894 (hereinafter called " the said Act"), and whereas in pursuance of the said agreement the Government have acquired said land and the Society has paid to the Government the cost of acquisition of the said land and whereas possession of the said land has been delivered and

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transferred to the Society.

And whereas the said land has been vested in the Society subject to the provisions of the Bombay Land Revenue Code, 1879, ~~Society subject to the provisions of the Bombay Land Revenue Code 1879~~ (hereinafter called " the said Code") and the Rules framed thereunder from time to time.

Now therefore it is hereby declared that the said land is vested in the Society and is held by the Society as its property to be used for the purposes of Buildings, Roads etc. subject nevertheless to the payment by the Society of agricultural, non-agricultural or other assessment as the case may be to which the said land may be liable under the provisions of the said code and the rules made thereunder and the Local Fund Cess as the case may be on the following terms and conditions :-

4. The Society shall-

i. not use the said land for any purpose other than that for which it is acquired;

ii. under-take the work of construction of the ~~building of~~ buildings and roads required within one year from the date on which possession of the land is handed to the Society and complete the same within three years from the aforesaid date;

iii. at all times, keep and maintain the said land and the building or buildings erected thereon in good order and condition to the satisfaction of the Collector;

iii(a). at its own cost provide and continue to provide on the said land such roads, parks, and other amenities as the Govt. may by a general or special order prescribe and observe and carry out all the

directions which the Govt. may fro time to time issue with respect to such roads, parks and other amenities including the directions as regards the maintenance or use th of or entry therein;

iv. manage the said society in accordance with the rules framed under th Bombay cooperative Societies Act, 1925;

v. maintain all records of the Societ properl and supply to Govt. punctually such returns of statistical and other information as may from time to time be required by Government;

vi. not use the said land or any building that may be erected upon it for any purpose which in the opinion of Government is objectionable;

5. The Society shall from time to time and at alltimes permit the Government or any officer or officers authorised by the Govt. in that behalf to inspect the sa land and any works of the Society upon the said land whether in the course of construction or otherwise and shall furnish to the Government from time to time on demand correct statements of the monies expended by the Society in the construction of the said works of the Society upon the said land.

6. In case the said land is not used for the purpose for which it is acquired as hereinbefore recited or is used for any other purpose of in case

p.t.o.

the society commits a breach of any of the conditions hereof, the said land together with the buildings, if any, erected thereon, shall be liable to resumption by the Govt. subject however to the condition that the amount spent by the Society for the acquisition of the said land or its value as undeveloped land at the time of resumption, whichever is less (but excluding the cost or value of any improvements made by the Society to the said land or of any structure standing on the said land) shall be paid as compensation to the society. Provided that the said land and the buildings, if any, erected thereon, shall not be so resumed, unless due notice of the breach complained of has been given to the Society and the Society has failed to make good the breach or to comply with any directions issued by the Govt. in this behalf within the time specified in the said notice for compliance therewith.

7. If at any time or times the whole or any part of the said land is required by Government or for the purpose of making any new public road, or for any purpose connected with public health, safety, utility or necessity (as to which matter the Society shall accept as final the decision o f the Government) the Society on being thereunto required by the Government in writing shall transfer to the Govt. the whole or part of the said land as the Government shall specify to be necessary for any of the aforesaid purposes and in consideration of such transfer the Government, shall pay to the society a sum equal to the amount of the compensation awarded under the said Act and paid by the Society in

p.t.o.

in respect of the land so transferred including the percentage awarded und sec.23(2) of the said Land Act, toget with such amount as shall be estimate by the Executive Engineer, Dharwar Division, whose decision in the matt shall be final as the cost of the dev lopment of the land so transferred whi shall include the value on the date of transfer of any structures standing thereon and when part of a building is on the land so transferred and part on the adjoining land, ~~reasonable comp sation for the infurious land,~~ reasona ble compensation for the infurious affection of the part of the building on the adjoining land.

Schedule.

District Dharwar. Taluka Kanebennur

Mahal- Byadagi.

~~Mahal~~ Village Byadgi. S.No. 45, 305, 321.

Approximate area of the land required 9 acres and 26 gunthas.

This sanad is executed on behalf of the Governor of Bombay by the Collector of Dharwar this

_____ day of _____

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Seal of the Collector.

Collector of Dharwar.

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Legal Department

The draft Sanad as amended is in order.

O/c BN 23/11
Solicitor to Govt.

U.R.to R.D. No.13424 dated the 23rd November 1949

Issued 28/11

Submitted after issue

File in Agn Leg/Leg

24/11

5 days RM 24/11

Agn Leg/Leg
Advt

K.

An Agreement made this.....
day of .....1949 between the Karnatak Cooperative Housing Society, Ltd. a society registered under the Bombay Societies Act, 1925, and having its registered office at B/1 Sonawala Bldg., Gamdevi, Bombay 7(hereinafter called " the Society" which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors and assigns) of the one part, and the Governor of Bombay of the other part;

(hereinafter called "the Government" which expression shall unless excluded by or repugnant to the context be deemed to include his successors in office and assigns)

Whereas the principal objects for which the Society is established is to construct houses on co-partnership basis for its members.

And whereas the Society has applied to the Govt. ~~of Bombay (hereinafter referred to as " the Government")~~ that certain land at Mahim .....more particularly described in the schedule hereto annexed (and hereinafter referred to as "the said land") should be acquired under the provisions of the Land Acquisition Act, 1894 (I of 1894) (hereinafter referred to as " the said Act"), ~~for the following purposes), namely~~ :-

~~for Karnatak Cooperative Housing Society Ltd. to enable the Society to~~ construct houses on partnership basis for its member

And whereas the Government, having caused an enquiry to be made in conformity with the provisions of the said Act and being satisfied as a result of such enquiry that the acquisition of the said land is needed for the purposes aforesaid, has consented to the provisions of the said Act being put in force in order to acquire the said

land.....

land for the Society, and has, pursuant to Section 41 of the said Act, required the Society to enter into an agreement hereinafter contained with the Government.

Now these presents witness and it is hereby agreed that the Govt. shall put in force the provisions of the said Act in order to acquire the said land for the Society on the following conditions, namely :-

(1) The Society shall pay to the Govt. the entire cost, as determined by the Govt. of the acquisition of the said land, including all compensation, damages, costs, charges and other expenses whatsoever, which have been or may be paid or incurred in respect of or on account of such acquisition or in connection with any litigation arising out of such acquisition either in the Original or Appellate Courts, and including the cost on account of any establishment and salary of any officer or officers of Govt. whom the Govt. may think it necessary to employ or depute on special duty for the purpose of such acquisition and also including the percentage charges on the total amount of compensation awarded as prescribed in Govt Rules, R.D.No.2401/24, dated the 6=3-1925 and 24-11-1925, or any other resolutions which may be issued by Government hereinafter in supersession or modification of the said resolutions. The monies which shall be payable by the Society under this clause shall be paid by it by the initial deposit with the Collector of Bombay (hereinafter called " the Collector") of the sum of Rs.7000/-within seven days after the execution of this agreement and thereafter

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after by payment to the Collector within fourteen days after demand by the Collector in writing of such further amount as the Collector shall from time to time estimate to be costs, charges or expenses hereinbefore referred to.

(2) On payment of the entire cost of the acquisition of the said land as hereinabove referred to, the whole of the said land shall, as soon as conveniently may be, be transferred to the Society, at the cost in every respect of the Society so as to vest in the Society, subject to the provisions of the Bombay City Land Revenue Act, 1876 and the rules made thereunder and subject also to the provisions of this agreement as to the terms on which the said land shall be held by the Society.

(3) The said land when so transferred to and vested in the Society shall be held by the Society as its property to be used only in furtherance of and for the purposes for which it is acquired.

(4) The Society shall (i) not use the said land for any purposes other than that for which it is acquired; (ii) undertake the work of construction of the building or buildings within one year from the date on which possession of the said land is handed to the Society and complete the same within one year from the aforesaid date. (iii) at all times keep and maintain the said land and the building or buildings erected thereon in

good.....

good order and condition to the satisfaction of the Collector;(iv) maintain all records of the Society properly and supply to the Govt. punctually such returns, statistics and other information as may from time to time be required by the Govt.(v) manage and conduct the said building in accordance with the rules and regulations for the time being in force of the Bombay Muncy. and the Govt. (vi) not use the said land or any buildings, that may be erected upon it for any purpose which in the opinion of Govt. is objectionable.

(5) The Society shall from time to time and at all times, permit the Govt. or any officer or officers authorised by the Govt. in the behalf, to inspect the said land and any works of the Society upon the said land whether in the course of construction or otherwise, and shall furnish to the Government from time to time on demand correct statement of the monies expended by the Society in the construction of the said works of the Society upon the said land.

(6) In case the said land is not used for the purposes for which it is acquired as herinbefore recited, or is used for any other purpose or in case the Society commits a breach of any of the conditions hereof the said land together with the buildings, if any, erected thereon shall be liable to resumption by the Govt. subject, however, to the condition that the amount spent by the Society for the acquisition of the said land or its value

as undeveloped land at the time of resumption, whichever is less (but excluding the cost or value of any improvements made by the Society to the said land or of any structure standing ~~xxxxxx~~on the said land) shall be paid as compensation to the Societ; Provided that the said land and the buildings, if any erected thereon shal not be so resumed unless due notice of the breach complained of has been given to the Society and the Society has failed to make good the breach or to comply with any direct-ions issued by the Govt. in this behalf within the time specified in the said notice for compliance there-with.

(7) If, at any time or times, the whole or any part of the said land is required by Govt. for the purpose of making any new public road or for any purpose connected with public health, safety, utility or necessity, (as to which matter the Society shall accept as final the decision of the Govt.) the Society on being thereunto required by the Govt. in writing shall transfer to the Govt. the whole or part of the said land as the Govt. shall specify to be necessary or for any of the afor said purposes, and in consideration of such transfer the Govt. shall pay to the Society a sum equal to the amount of the compensation awarded under the said Act and paid by the Society in respect of the land so

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transferred including the percentage awarded under Section 23(2) of the said Act together with such amount as shall be estimated by the Executive Engineer, Presidency Dn., whose decision in the matter shall be final, as the costs of the development of the land so transferred, which shall include the value at the date of transfer of any structures standing thereon, and when part of the building lines on the land so transferred and part is on an adjoining land reasonable compensation for the injurious affection of the part of building on the adjoining land.

(8) No voluntary alienation of the land acquired or any portion thereof will be permitted without the prior sanction of Government.

(9) All the costs and expenses of and incidental to the preparation and execution of these presents shall be paid by the Society.

THE SCHEDULE ABOVE REFERRED TO.

The land admeasuring 190 sq.yards situated at Mahim, Bombay and bearing Cadastral Survey No.581(part) of Mahim Division.

IN WITNESS WHEREOF

On behalf of the Society as authorised by a resolution of the Society dated the

have set their hands and the seal of the Society and the Collector of Bombay hath on behalf of the Government of Bombay set his hand and affixed the seal hereto the day and year first above written.

SIGNED,SEALED & DELIVERED)
by

Seal of the

of the Society.

p.t.o.

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In the presence of :-

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SIGNED,SEALED and DELIVERED
by :-

Collector of
Bombay.

Seal of the
Collector.

In presence of :-

DD/22/11/

1157

LEGAL DEPARTMENT.

The draft Agreement as amended is in order.

Solicitor to Government.

U.R. to R.D.No. 13840 dated the 30th November 1949.

K. 28/-

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Submitted after nine

Filed in Agn Log/Leg

MEP

FLH

SDL

RJM 11/12

Agn Log/Leg

2/12